(2)

IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 887 OF 2003

PETITIONER: - :

~~Bajarang Kedia s/o Late Madam~~ Lal ~~Kedia, aged about 60~~ years, ~~Editor/ Prabandhak~~ Navbharat ~~Daily, Near Bus Stand~~, ~~Bilaspur~~ ~~Tahsil & District~~ Bilaspur (C.G.)

Dainik Navbharat Through:- its printer and publisher; Dainik Navbharat Bus Stand Road, Bilaspur Chhattisgarh

Vs.

Corrected vide Hon'ble court Order dated 26-04-05 in Court Room. 26-04-05

RESPONDENT : 1. Akhil Pandey, s/o. Sri Manharan Lal Pandey, aged about 41 years, R/o. High court Road, Bilaspur, Tahsil & District Bilaspur (C.G.)

2. Presiding officer, Labour court, Bilaspur District Bilaspur (C.G.)

P. R. No. ..... Presented by Shri Sanjay K. Agrawal dated 26.02.03

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS PROHIBITION AND OTHER SUITABLE WRIT OF WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS;

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 887 of 2003

Petitioner : Dainik Nav Bharat

Versus

Respondents : Akhil Pandey & another

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

None appears for the petitioner.
None appears for the respondents.

ORDER

(23rd August, 2006)

1. On perusal of the papers, it appears that the impugned order dated 2.1.2003 (Annexure P/11) was passed ex-parte against the petitioner on account of the fact that his counsel died during pendency of the proceeding before the Labour Court. The petitioner could not ascertain the date of hearing. The Labour Court proceeded ex-parte by order dated 11.9.2002 (Annexure P/5).

2. The petitioner filed application dated 10.10.2002 (Annexure P/6) for setting aside the ex-parte order dated 11.9.2002 passed by the Labour Court in Case No. 8 I.D.A./2002 (Ref.).

3. Admittedly, the period of limitation for filing an application to set aside ex-parte order is 30 days and the application was filed within the limitation period. Hence, the subsequent impugned order dated 2.1.2003 (Annexure P/11) is not just and proper as the application

to set aside ex-parte order dated 11.9.2002 was filed within the limitation period.

4. The Labour Court ought to have accepted the application and considered the application on merit. The application is rejected on the ground that the same was filed beyond the period of limitation. Thus, it is held that the application for setting aside the ex-parte order dated 11.9.2002 was passed within the limitation period without going into merits of the case, which may prejudice the case of the parties.

5. The matter is remanded back to the Labour Court for deciding the application dated 10.10.2002 (Annexure P/6) filed by the petitioner for setting aside ex-parte order dated 11.9.2002 (Annexure P/5) passed by the Labour Court, in accordance with law.

6. Consequently, the impugned order dated 2.1.2003 (Annexure P/11) is set aside and the Labour Court is directed to decide the matter, as expeditiously as possible, preferably, within a period of three months from the date of receipt of the documents from this Court, after issuing notice to the parties, fixing the date of hearing without being influenced by any observations made hereinabove, in accordance with law. The Registry is directed to remit back the papers of the case to the Labour Court forthwith.

7. The petition is accordingly allowed to the above extent. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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